

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RYAN K. ROZAK,

Plaintiff,

v.

SCOTT RANDT and JEREMY BAILEY,

Defendants.

ORDER

15-cv-367-jdp

Plaintiff Ryan K. Rozak, a prisoner at the Fox Lake Correctional Institution, alleges that prison officials violated his First Amendment rights by retaliating against him for filing lawsuits and grievances. Trial is set for July 23, 2018, with Rozak appearing pro se.

I previously denied Rozak's request to subpoena three potential witnesses because he did not comply with this court's procedures for making such requests. Dkt. 80. He has resubmitted his requests, fixing some of the problems. *See* Dkt. 87–89. For instance, he now explains what each of the witnesses will testify about and why he believes that they will not testify voluntarily; each of them has not responded to his correspondence.

But there is still one defect that leads me to deny his requests: he cannot pay the required witness fees. Rozak says that he is willing to pay the fees out of his prison release account, but use of inmate release account funds is governed by state law. He does not provide any documentation showing that the DOC will let him use the funds in this way, and I cannot order the DOC to withdraw the funds. It is only when a prisoner's general account has insufficient funds to pay the initial partial filing fee payment that this court will order an institution to use release account funds to satisfy that initial partial fee payment. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936–37 (W.D. Wis. 2005). There is no federal law that requires

state officials to allow the use of release account funds to pay for litigation costs like witness fees. So I will deny his motions for subpoenas.

ORDER

IT IS ORDERED that plaintiff Ryan K. Rozak's motions for subpoenas, Dkt. 87-89, are DENIED.

Entered July 18, 2018.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge